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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/810,913	03/26/2004	Mauro Adami	035170-9002-02	9409

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EXAMINER

GOODMAN, CHARLES

ART UNIT	PAPER NUMBER
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3724

DATE MAILED: 04/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No.	Applicant(s)	
	10/810,913	ADAMI, MAURO	
	Examiner	Art Unit	
	Charles Goodman	3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 September 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 38-66 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 38-66 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>11/18/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The Second Preliminary Amendment filed on 9/17/2004 has been entered.
2. The Preliminary Amendment filed on 3/26/2004 has been entered.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 38-42, 45, 47-59, 62 and 64-66 are rejected under 35 U.S.C. 102(b) as being anticipated by Baumann et al (US 4,276,797).

Baumann et al discloses a cutting apparatus comprising, *inter alia*, a rotating cutting cylinder (e.g. 67); an opposing member (e.g. 16); the cutting cylinder having a length and a plurality of blades (e.g. 68a, 68a...) distributed along the length of the cutting cylinder and connected to a plurality of actuators (e.g. 63, 63...), the blades are “independent” (in terms of sequence of operation and the inclusion of individual actuators for each blade). See Figs. 1-7b. Regarding the rotation, since the blade segment is retracted during a portion of a complete revolution and since the claim does not limit the rotation to a full or partial rotation, it appears that Baumann et al meets these limitations.

Regarding the “ball joints”, it appears that Baumann et al includes the same since the joint is similar to that shown in the application.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 38-45, 47-62 and 64-66 are rejected under 35 U.S.C. 103(a) as being unpatentable over MacFarren '452 (US 2,274,452) in view of Baumann et al.

MacFarren '452 discloses the invention substantially as claimed including a cutting cylinder (e.g. 14) having blades (70) and respective actuators (85, 87, 88). Note Fig. 8. However, it appears that MacFarren lacks a plurality of blade segments distributed along the length of the cutting cylinder and respective actuators for the blade segments. In that regard, Baumann et al teaches a cutting cylinder (67) having a plurality of blades (e.g. 68a, 68a...) distributed along the length of the cutting cylinder with each blade segment connected to a respective actuator (e.g. 63, 63...) for the purpose of providing selective cuts to the web across the width thereof, the actuators being housed in an axial cavity of the cutting cylinder. See Figs. 6a-7b, c. 4, ll. 27-68. Thus, it would have been obvious to the ordinary artisan at the time of the instant invention to provide the device of MacFarren '452 with the plurality of blade having respective actuators as suggested by Baumann et al in order to facilitate selective widthwise cutting of the web of material.

As a result of the above, the modified device of MacFarren '452 would include "independent" actuated blades, since each blade has a separate actuator.

Double Patenting

7. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

8. Claims 38-66 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-45 of U.S. Patent No. 6,722,243.

Although the conflicting claims are not identical, they are not patentably distinct from each other because they differ in the breadth of terminology used. For example, the phrase "independently actuated blades" of claim 1 of the instant application is another way of setting forth the "selective" extension and retraction of the blade segments in claim 1 of the patent.

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Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles Goodman whose telephone number is (571) 272-4508. The examiner can normally be reached on Monday-Thursday between 7:30 AM to 6:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan Shoap, can be reached on (571) 272-4514. In lieu of mailing, it is encouraged that all formal responses be faxed to (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197 (toll-free).

cg

April 17, 2006



Charles Goodman
Primary Examiner
AU 3724

CHARLES GOODMAN
PRIMARY EXAMINER